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Robert D. Shedd, Patent Operations THOMSON Licensing LLC P.O. Box 5312 Princeton, NJ 08543-5312			EXAMINER NGUYEN, LUONG TRUNG	
			ART UNIT 2622	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/527,577	<b>Applicant(s)</b> MERRELL ET AL.	
	<b>Examiner</b> LUONG T. NGUYEN	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-13, 15, 16, 18-22 and 24-29 is/are rejected.
- 7) ☒ Claim(s) 4, 14, 17 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/17/09</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed on 07/16/2009 have been fully considered but they are not persuasive.

In re page 11, Applicants argue that there is no support for the Office Action's assertion that Kojima's video display has a fixed position.

In response, regarding claim 1, Applicants recited claim 1 with limitation "a video display, having a fixed position, for playing back a video portion of a video message from a user." It should be noted that the claim only recites "a video display having a fixed position," the claim does not recite the video display having a fixed position with respect to any element; therefore, the Examiner considers that the video display is broadly read on LCD 21, the LCD 21 having a fixed position with respect to display part 3. The PTO must give claim words their broadest reasonable meaning in their ordinary usage, as understood by one of ordinary skill in the art. **In re Morris**, 127, F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997).

In re page 12, Applicants argue that there is simply no teaching of connecting to any external device to retrieve a video message or remote instructions for retrieving the video message, as provided in claim 24. Thus, claim 24 is not anticipated by Kojima for this additional reason.

In response, regarding claim 24, the Applicants recited limitation an external bus for at least one of connecting to an external device to retrieve the video message there from or to

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receive remote instructions for retrieving the video message. The Examiner considers that Kojima et al. does disclose this limitation. Kojima et al. disclose an external bus as external bus 55, figure 7, column 3, lines 4-13.

In rte page 13, Applicants argue that there is no motivation to combine Kojima with various references cited in the respective 103 rejection.

2. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In re page 14, Applicants argue that such a selective combination of features can only be a result of impermissible hindsight based on Applicants' teaching, namely, that the features are selected from the references and combined based on similar features recited in Applicants' claims.

3. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the

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applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In re page 14, Applicants argue that there is no logical basis for combining Kojima's PC designed for a single-button image capture operation with Kusaka's system for editing and reproduction of audio/video data.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of Kojima et al. reference and Kusaka et al. reference would allow a user reproduces the image and audio exactly as designated by user's own (Kusaka et al., paragraph [0127]).

In re page 15, Applicants argue that there is no logical basis for combining Kojima's teaching of a PC having a single-button image capture, with Mooney's access control/crypto system with a smart card reader.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching,

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suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of Kojima et al. reference and Mooney et al. reference would provide a means for security files stored on the system, only a user who is authorized can access computer (Mooney et al., see abstract).

In re page 16, Applicants argue that there is no logical basis for combining Kojima with Huang in the manner suggested in the Office Action.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of Kojima et al. reference and Huang et al. reference would provide a means for security of the system.

In re page 17, Applicants traverse the taking of Official Notice in the claims 18, 21, 22-23, 27-29, and request evidentiary support that the respective features in these claims were indeed well-known in a video message system at the time of the present invention.

Following are the references support for Official Notice in these claims.

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For claim 18, claim 18 recite limitation “a daily scheduler,” which is disclosed by Barrett et al. (US 2004/0034865), figure 1, paragraphs [0023], [0030],[0031].

For claim 21, claim 21 recite limitation “a telephone feature for placing and receiving telephone calls,” which is disclosed by Skerlos et al. (US 4,356,509), see abstract, column 4, lines 4-40.

For claim 22, claim 22 recite limitation “a message indicator for indicating an existence of unplayed video messages,” which is disclosed by Allen et al. (US 7,428,023), column 11, lines 4-15.

For claim 27, claim 27 recite limitation “a timer for time-stamping messages as they are recorded,” which is disclosed by Hayato (US 6,081,692), column 4, lines 10-20.

For claim 28, claim 28 recite limitation “a timer for specifying a time amount remaining for recording the video messages,” which is disclosed by Cocca (US 5,387,955), column 4, lines 1-12.

For claim 29, claim 29 recite limitation “a timer for specifying a time amount remaining of a current playback of the video messages,” which is disclosed by Jones (US 5,519,766), column 4, line 62 – column 4, line 14.

#### ***Information Disclosure Statement***

4. The information disclosure statements (IDS) submitted on 11/17/2009 has been considered by the examiner.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 2, 5-9, 24 under 35 U.S.C. 102(e) as being anticipated by Kojima et al. (US 6,980,236).

Regarding claim 1, Kojima et al. discloses a video message system, comprising:

a video display (LCD 21, figures 1-2, column 2, lines 52-67), having a fixed position, for playing back a video portion of a video message from a user;

a frame (the portion of display part around LCD 21, figures 1-2) for framing said video display; and

at least one video camera (CCD video camera 23, figures 1-2, column 2, lines 52-67) disposed on said frame, and oriented in a same direction as said video display, for capturing video data of the user for inclusion in the video portion of the video message.

Regarding claim 2, Kojima et al. discloses:

a microphone (microphone 24, figures 1-2, column 2, lines 40-45) for capturing audio data from the user for inclusion in an audio portion of the video message; and

at least one speaker (speaker 8, figures 1-2, column 4, lines 29-30) for playing back the audio portion of the video message.



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Regarding claim 5, Kojima et al. discloses:

a memory device (PC card which is accommodated in slot 12, figure 1, column 2, lines 49-51) disposed with said frame, for storing the video message.

Regarding claim 6, Kojima et al. discloses wherein said memory device is capable of being dynamically updated (PC card in Kojima et al. is capable of being dynamically updated).

Regarding claim 7, Kojima et al. discloses wherein said frame is a picture-type frame (figures 1-2).

Regarding claim 8, Kojima et al. discloses wherein said frame comprises a plurality of bezels (figures 1-2), at least one of said bezels for having said video display disposed thereon.

Regarding claim 9, Kojima et al. discloses:

a microphone (microphone 24, figures 1-2, column 2, lines 40-45) for capturing audio data from the user for inclusion in an audio portion of the video message; and

at least one speaker (speaker 8, figures 1-2, column 4, lines 29-30) for playing back the audio portion of the video message,

wherein said frame comprises a plurality of bezels (figures 1-2), at least one of said bezels for having said video display and said microphone disposed thereon.

Regarding claim 24, Kojima et al. discloses:

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an external bus (external bus 55, figure 7, column 3, lines 4-13) for at least one of connecting to an external device to retrieve the video message there from or to receive remote instructions for retrieving the video message.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US 6,980,236) in view of Kusaka et al. (US 2003/0012559).

Regarding claim 3, Kojima et al. fails to disclose a synchronization device for providing synchronization data for synchronizing the playback of the audio portion with the playback of the video portion. However, Kusaka et al. discloses an image and audio reproducing apparatus and method, in which CPU 110 controls reading of file from the storage unit 101, decoding by the decoder 108, and synchronized reproduction of images and audio by the synchronization control unit 109 (figures 1, 13, paragraphs [0063]-[0064], [0126]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device Kojima et al. by the teaching of Kusaka et al. in order to allow a user reproduces the image and audio exactly as designated by user's own (paragraph [0127]).

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9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US 6,980,236) in view of Mooney et al. (US 6,351,813).

Regarding claim 10, Kojima et al. fails to disclose an encryption/decryption device for encrypting and decrypting the video message. However, Mooney et al. discloses a personal computer system 100, which executes a special security program which encrypts and decrypts files stored on hard drive 180, or other electronic storage devices (figures 1, 3A, column 3, lines 60-67; column 4, lines 37-56). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device Kojima et al. by the teaching of Mooney et al. in order to provide a means for security files stored on the system, only a user who is authorized can access computer (see abstract).

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US 6,980,236) in view of Huang et al. (US 6,247,052).

Regarding claim 11, Kojima et al. fails to disclose a user input device for receiving a pre-designated message retrieval code from a user; and a password manager for blocking access to the message until the pre-designated message retrieval code provided by the user is verified. However, Huang et al. discloses a graphic user interface system for a telecommunication switch management system, in which System Security Client 54 verifies the user's ID and password to allow the user logon computer if the ID and password are valid (column 6, lines 52-65).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device Kojima et al. by the teaching of Huang et al. in order to provide a means for security of the system.

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11. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US 6,980,236) in view of Huang et al. (US 6,247,052) further in view of Mooney et al. (US 6,351,813).

Regarding claim 12, Kojima et al. and Huang et al. fail to disclose an encryption/decryption device for encrypting and decrypting the video message. However, Mooney et al. discloses a personal computer system 100, which executes a special security program which encrypts and decrypts files stored on hard drive 180, or other electronic storage devices (figures 1, 3A, column 3, lines 60-67; column 4, lines 37-56). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device Kojima et al. and Huang et al. by the teaching of Mooney et al. in order to provide a means for security files stored on the system, only a user who is authorized can access computer (see abstract).

12. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US 6,980,236) in view of Huang et al. (US 6,247,052) further in view of Umeda (US 2001/0017977).

Regarding claim 13, Kojima et al. and Huang et al. fail to disclose a delay module for receiving a delay input that delays a notification of the video message until a specified time. However, Umeda discloses a video reproducing apparatus which includes a processing procedure for the manager 301 to issue the reproduction delay notification (figure 6, paragraphs [0055], [0056]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device Kojima et al. and Huang et al. by the teaching of

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Umeda in order to reproduce a smooth video even in a scene including rapid movement (paragraph [0032]).

13. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US 6,980,236) in view of Lipton et al. (US 4,523,226).

Regarding claim 15, Kojima et al. fails to disclose wherein said at least one camera comprises at least two cameras for capturing stereoscopic video data of the user. However, Lipton et al. discloses that any two video cameras may be used in a dual camera stereoscopic ensemble (figure 1, column 6, lines 33-44). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Kojima et al. by the teaching of Lipton et al. in order to capture a stereoscopic video image.

14. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US 6,980,236) in view of Nishimoto et al. (JP 10-240904).

Regarding claim 16, Kojima et al. fails to disclose a processor for graphically generating a visual kaleidoscope for display on said display device. However, Nishimoto et al. discloses a real-time multimedia art producing device, in which the image of the motion of a player 1 is picked up by a camera 6 to segment its image pickup signal to generate a kaleidoscope by a kaleidoscope generating device 8 to display on a screen by a display device 10 (see abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention

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was made to modify the device Kojima et al. by the teaching of Nishimoto et al. in order to provide a multimedia art producing device which easily and simultaneously generates harmonized image and music (see abstract).

15. Claims 18, 21-22, 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US 6,980,236).

Regarding claim 18, Kojima et al. fail to disclose a daily scheduler. However, Official Notice is taken that it is well known in the art to include a daily scheduler to a video message system such as a laptop or a personal computer in order to let a user to prepare a schedule of working in a day.

Regarding claim 21, Kojima et al. fail to disclose a telephone feature for placing and receiving calls. However, Official Notice is taken that it is well known in the art to include such a telephone into a personal computer in order to make more convenient for a user when to make call or receiving a call while working on the personal computer.

Regarding claims 22, Kojima et al. fail to disclose a message indicator for indicating an existence of unplayed video messages. However, Official Notice is taken that it is well known in the art to include such a message indicator telephone into a personal computer in order to inform an information to a user.

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Regarding claim 27, Kojima et al. fail to disclose a timer for time-stamping messages as they are recorded. However, Official Notice is taken that it is well known in the art to include such a timer into a personal computer in order to inform a time of recording a message to a user.

Regarding claim 28, Kojima et al. fail to disclose a timer for specifying a time amount remaining for recording the video message. However, Official Notice is taken that it is well known in the art to include such a timer into a personal computer in order to inform a time amount remaining of recording a message to a user.

Regarding claim 29, Kojima et al. fail to disclose a timer for specifying a time amount remaining of a current playback of the video message. However, Official Notice is taken that it is well known in the art to include such a timer into a personal computer in order to inform a time amount remaining of a current playback of a message to a user.

16. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US 6,980,236) in view of Roffman et al. (US 6,375,568).

Regarding claim 19, Kojima et al. fail to disclose a visual casino slot machine that is displayed on said display device. However, Roffman et al. discloses a display screen configuration displayed by the display screen of each gaming machine 14 (figure 1, column 8, lines 19-44). Therefore, it would have been obvious to one of ordinary skill in the art at the time

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the invention was made to modify the device Kojima et al. by the teaching of Roffman et al. in order to allow a user can play game at his or her own personal computer.

17. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US 6,980,236) in view of Goldstein (US 5,410,326).

Regarding claim 20, Kojima et al. fail to disclose a remote control device for controlling functions of the video message system. However, Goldstein discloses a remote control device 5, which controls a plurality of devices 5, 6, 7 8, 9 (figure 1, column 7, lines 4-41). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device Kojima et al. by the teaching of Goldstein in order to allow a user remotely control function of a video system.

18. Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US 6,980,236) in view of Umeda (US 2001/0017977).

Regarding claim 25, Kojima et al. fails to disclose a delay module for receiving a delay input that delays a notification of the video message until a specified time. However, Umeda discloses a video reproducing apparatus which includes a processing procedure for the manager 301 to issue the reproduction delay notification (figure 6, paragraphs [0055], [0056]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device Kojima et al. by the teaching of Umeda in order to reproduce a smooth video even in a scene including rapid movement (paragraph [0032]).



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Regarding claim 26, Umeda discloses an external connector for receiving the delay input from a remote location with respect to a location of the video message system (PCI bus 2, figure 1).

*Allowable Subject Matter*

19. Claims 4, 14, 17, 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUONG T. NGUYEN whose telephone number is (571)272-7315. The examiner can normally be reached on 7:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID L. OMETZ can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LUONG T NGUYEN/  
Primary Examiner, Art Unit 2622  
11/23/09